

SENATE BILL No. 412

DIGEST OF INTRODUCED BILL

Citations Affected: IC 29-3-2-1; IC 31-9-1-2; IC 31-9-2; IC 31-17; IC 31-17.5.

Synopsis: Uniform child custody jurisdiction and enforcement. Repeals the Uniform Child Custody Jurisdiction Law and replaces it with the Uniform Child Custody Jurisdiction and Enforcement Act providing for clearer standards regarding interstate child custody modification jurisdiction. Establishes a process to enforce interstate child custody and visitation determinations with uniformity and harmonizes the law with respect to simultaneous proceedings and inconvenient forums.

Effective: July 1, 1999.

Simpson

January 11, 1999, read first time and referred to Committee on Judiciary.



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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 412

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 29-3-2-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) This article applies to the
3 following:

4 (1) The business affairs, physical person, and property of every
5 incapacitated person and minor residing in Indiana.

6 (2) Property located in Indiana of every incapacitated person and
7 minor residing outside Indiana.

8 (3) Property of every incapacitated person or minor, regardless of
9 where the property is located, coming into the control of a
10 fiduciary who is subject to the laws of Indiana.

11 (b) Except as provided in subsections (C) through (e), the court has
12 exclusive original jurisdiction over all matters concerning the
13 following:

14 (1) Guardians.

15 (2) Protective proceedings under IC 29-3-4.

16 (c) A juvenile court has exclusive original jurisdiction over matters
17 relating to minors described in IC 31-30-1-1.



(d) Except as provided in subsection (c), courts with child custody jurisdiction under:

(1) IC 31-14-10;

(2) IC 31-17-2-1; or

(3) **IC 31-17.5-5-1 (or IC 31-17-3-3 before its repeal);**

have original and continuing jurisdiction over custody matters relating to minors.

(e) A mental health division of a superior court under IC 33-5.1-2 has jurisdiction concurrent with the court in mental health proceedings under IC 12-26 relating to guardianship and protective orders.

(f) Jurisdiction under this section is not dependent on issuance or service of summons.

SECTION 2. IC 31-9-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. Except as otherwise provided, the definitions in this article do not apply to the following:

(1) IC 31-11-3.

(2) **IC 31-17.5 (or IC 31-17-3 before its repeal).**

(3) IC 31-18.

(4) IC 31-19-29.

(5) IC 31-37-23.

SECTION 3. IC 31-9-2-0.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: "**Abandoned**", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-17.5, has the meaning set forth in IC 31-17.5-2-2.

SECTION 4. IC 31-9-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) "Child", for purposes of IC 31-15, IC 31-16, and IC 31-17, means a child or children of both parties to the marriage. The term includes the following:

(1) Children born out of wedlock to the parties.

(2) Children born or adopted during the marriage of the parties.

(b) "**Child**", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-17.5, has the meaning set forth in IC 31-17.5-2-3.

~~(b)~~ (c) "Child", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-2.

~~(c)~~ (d) "Child", for purposes of IC 31-19-5, includes an unborn child.

~~(d)~~ (e) "Child", for purposes of the juvenile law, means:

(1) a person who is less than eighteen (18) years of age;

(2) a person:



- 1 (A) who is eighteen (18), nineteen (19), or twenty (20) years
 2 of age; and
 3 (B) who either:
 4 (i) is charged with a delinquent act committed before the
 5 person's eighteenth birthday; or
 6 (ii) has been adjudicated a child in need of services before
 7 the person's eighteenth birthday; or
 8 (3) a person:
 9 (A) who is alleged to have committed an act that would have
 10 been murder if committed by an adult; and
 11 (B) who was less than eighteen (18) years of age at the time of
 12 the alleged act.
 13 ~~(e)~~ (f) "Child", for purposes of the Interstate Compact on Juveniles
 14 under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.
 15 SECTION 5. IC 31-9-2-16.5 IS ADDED TO THE INDIANA CODE
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 17 1, 1999]: **Sec. 16.5. "Child custody determination", for purposes of**
 18 **the Uniform Child Custody Jurisdiction Act under IC 31-17.5, has**
 19 **the meaning set forth in IC 31-17.5-2-4.**
 20 SECTION 6. IC 31-9-2-16.7 IS ADDED TO THE INDIANA CODE
 21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 22 1, 1999]: **Sec. 16.7. "Child custody proceeding", for purposes of the**
 23 **Uniform Child Custody Jurisdiction Act under IC 31-17.5, has the**
 24 **meaning set forth in IC 31-17.5-2-5.**
 25 SECTION 7. IC 31-9-2-20.5 IS ADDED TO THE INDIANA CODE
 26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 27 1, 1999]: **Sec. 20.5. "Commencement", for purposes of the Uniform**
 28 **Child Custody Jurisdiction Act under IC 31-17.5, has the meaning**
 29 **set forth in IC 31-17.5-2-6.**
 30 SECTION 8. IC 31-9-2-27 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 27. (a) "Court", for
 32 purposes of IC 31-15, IC 31-16, and IC 31-17, means the circuit,
 33 superior, or other courts of Indiana upon which jurisdiction to enter
 34 dissolution decrees has been or may be conferred.
 35 (b) "Court", for purposes of IC 31-16-15, refers to the court having
 36 jurisdiction over child support orders.
 37 (c) "Court", for purposes of the Uniform Child Custody
 38 Jurisdiction Act under IC 31-17.5, has the meaning set forth in
 39 IC 31-17.5-2-7.
 40 ~~(e)~~ (d) "Court", for purposes of IC 31-37-23, has the meaning set
 41 forth in IC 31-37-23-3.
 42 ~~(d)~~ (e) "Court", for purposes of the Interstate Compact on Juveniles

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under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

SECTION 9. IC 31-9-2-53 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 53. (a) ~~"Home state", for purposes of the Uniform Child Custody Jurisdiction Law under IC 31-17-3, has the meaning set forth in IC 31-17-3-2.~~ **"Home state", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-17.5, has the meaning set forth in IC 31-17.5-2-8.**

(b) "Home state", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-5.

SECTION 10. IC 31-9-2-59.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 59.5. "Initial determination", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-17.5, has the meaning set forth in IC 31-17.5-2-9.**

SECTION 11. IC 31-9-2-64.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 64.5. "Issuing court", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-17.5, has the meaning set forth in IC 31-17.5-2-10.**

SECTION 12. IC 31-9-2-65 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 65. (a) **"Issuing state", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-17.5, has the meaning set forth in IC 31-17.5-2-11.**

(b) "Issuing state", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-11.

SECTION 13. IC 31-9-2-80.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 80.5. "Modification", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-17.5, has the meaning set forth in IC 31-17.5-2-12**

SECTION 14. IC 31-9-2-89 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 89. (a) "Person", for purposes of the juvenile law, means:

- (1) a human being;
- (2) a corporation;
- (3) a limited liability company;
- (4) a partnership;
- (5) an unincorporated association; or
- (6) a governmental entity.

(b) **"Person", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-17.5, has the meaning set forth in**



1 **IC 31-17.5-2-13.**

2 SECTION 15. IC 31-9-2-90 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 90. "~~Person acting as~~
 4 ~~parent~~", for purposes of the Uniform Child Custody Jurisdiction Law under ~~IC 31-17-3~~; has the meaning set forth in **IC 31-17-3-2: "Person**
 5 **acting as a parent"**, for purposes of the Uniform Child Custody
 6 **Jurisdiction Act under IC 31-17.5, has the meaning set forth in**
 7 **IC 31-17.5-2-14.**

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 9 SECTION 16. IC 31-9-2-91 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 91. (a) "**Petitioner**",
 11 **for purposes of the Uniform Child Custody Jurisdiction Act under**
 12 **IC 31-17.5, has the meaning set forth in IC 31-17.5-2-15.**

13 (b) "Petitioner" or "obligee", for purposes of the Uniform Interstate
 14 Family Support Act under IC 31-18, has the meaning set forth in
 15 IC 31-18-1-14.

16 SECTION 17. IC 31-9-2-92 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 92. "~~Physical custody~~",
 18 ~~for purposes of the Uniform Child Custody Jurisdiction Law under~~
 19 ~~IC 31-17-3~~; has the meaning set forth in ~~IC 31-17-3-2~~: "**Physical**
 20 **custody**", for purposes of the Uniform Child Custody Jurisdiction
 21 **Act under IC 31-17.5, has the meaning set forth in IC 31-17.5-2-16.**

22 SECTION 18. IC 31-9-2-102.5 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 1999]: Sec. 102.5. "**Record**" for purposes of
 25 **the Uniform Child Custody Jurisdiction Act under IC 31-17.5, has**
 26 **the meaning set in forth in IC 31-17.5-2-17.**

27 SECTION 19. IC 31-9-2-110 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 110. (a)
 29 "**Respondent**", for purposes of the Uniform Child Custody
 30 **Jurisdiction Act under IC 31-17.5, has the meaning set forth in**
 31 **IC 31-17.5-2-18.**

32 (b) "Respondent" or "obligor", for purposes of the Uniform
 33 Interstate Family Support Act under IC 31-18, has the meaning set
 34 forth in IC 31-18-1-15.

35 SECTION 20. IC 31-9-2-119 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 119. (a) "~~State~~", for
 37 ~~purposes of the Uniform Child Custody Jurisdiction Law under~~
 38 ~~IC 31-17-3~~; has the meaning set forth in ~~IC 31-17-3-2~~: "**State**", for
 39 **purposes of the Uniform Child Custody Jurisdiction Act under**
 40 **IC 31-17.5, has the meaning set forth in IC 31-17.5-2-19.**

41 (b) "State", for purposes of the Uniform Interstate Family Support
 42 Act under IC 31-18, has the meaning set forth in IC 31-18-1-21.

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(c) "State", for purposes of the Interstate Compact on Adoption Assistance under IC 31-19-29, has the meaning set forth in IC 31-19-29-2.

(d) "State", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

SECTION 21. IC 31-9-2-130.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 130.5. "Tribe", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-17.5, has the meaning set forth in IC 31-17.5-2-20.**

SECTION 22. IC 31-9-2-135 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 135. "Warrant", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-17.5, has the meaning set forth in IC 31-17.5-2-21.**

SECTION 23. IC 31-17-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. Jurisdiction of a child custody proceeding under:

(1) this chapter, IC 31-17-4, IC 31-17-6, and IC 31-17-7; or

(2) **IC 31-17.5 (or IC 31-17-3 before its repeal);**

shall be determined under **IC 31-17.5 (or IC 31-17-3 before its repeal).**

SECTION 24. IC 31-17-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. If the marriage of the child's parents has been dissolved in another state, the child's maternal or paternal grandparent may seek visitation rights if:

(1) the custody decree entered in the action for dissolution of marriage does not bind the grandparent under **IC 31-17.5-3-1 (or IC 31-17-3-12 before its repeal);** and

(2) an Indiana court would have jurisdiction under **IC 31-17.5-5-1 (or IC 31-17-3-3 before its repeal), IC 31-17.5-5-2, or IC 31-17.5-5-3 (or IC 31-17-3-14 before its repeal)** to grant visitation rights to the grandparent in a modification decree.

SECTION 25. IC 31-17.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

ARTICLE 17.5. UNIFORM CHILD CUSTODY JURISDICTION ACT

Chapter 1. Applicability

Sec. 1. This article does not apply to:

(1) **an adoption proceeding; or**

(2) **a proceeding pertaining to the authorization of emergency**



1 medical care for a child.

2 **Sec. 2. (a)** A child custody proceeding that pertains to an Indian
3 child as defined in the Indian Child Welfare Act, 25 U.S.C. 1901 et
4 seq., is not subject to this article to the extent that it is governed by
5 the Indian Child Welfare Act.

6 **(b)** An Indiana court shall treat a tribe as if the tribe were a
7 state of the United States for the purposes of applying IC 31-17.5-3
8 through IC 31-17.5-5.

9 **(c)** A child custody determination made by a tribe under factual
10 circumstances in substantial conformity with the jurisdictional
11 standards of this article must be recognized and enforced under
12 IC 31-17.5-6.

13 **Sec. 3. (a)** An Indiana court shall treat a foreign country as if
14 the foreign country were a state of the United States for the
15 purposes of applying IC 31-17.5-3 through IC 31-17.5-5.

16 **(b)** Except as otherwise provided in subsection (c), a child
17 custody determination made in a foreign country under factual
18 circumstances in substantial conformity with the jurisdictional
19 standard of this article must be recognized and enforced under
20 IC 31-17.5-6.

21 **(c)** An Indiana court need not apply this article if the child
22 custody law of a foreign country violates the fundamental
23 principles of human rights.

24 **Chapter 2. Definitions**

25 **Sec. 1.** The definitions in this chapter apply throughout this
26 article.

27 **Sec. 2. "Abandoned"** means left without provision for
28 reasonable and necessary care or supervision.

29 **Sec. 3. "Child"** means a person who has not reached eighteen
30 (18) years of age.

31 **Sec. 4. "Child custody determination"** means a judgment,
32 decree, or other court order providing for:

- 33 (1) legal custody;
- 34 (2) physical custody; or
- 35 (3) visitation;

36 with respect to a child. The term does not include an order relating
37 to child support or other monetary obligation of a person.

38 **Sec. 5. "Child custody proceeding"** means a proceeding in which
39 legal custody, physical custody, or visitation with respect to a child
40 is an issue. The term includes a proceeding for:

- 41 (1) dissolution of marriage or legal separation;
- 42 (2) child abuse or neglect;

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- (3) guardianship;
- (4) paternity;
- (5) termination of parental rights; and
- (6) protection from domestic violence;

in which the issue of child custody or visitation may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement of child custody under IC 31-17.5-6.

Sec. 6. "Commencement" means the filing of the first pleading in a proceeding.

Sec. 7. "Court" means an entity authorized by state law to establish, enforce, or modify a child custody determination.

Sec. 8. "Home state" means the state in which a child lived with:

- (1) a parent; or
- (2) a person acting as a parent;

for at least six (6) consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six (6) months of age, the term means the state in which the child lived since birth with a parent or person acting as a parent. A period of temporary absence of the parent or person acting as a parent is part of the period.

Sec. 9. "Initial determination" means the first child custody determination concerning a child.

Sec. 10. "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this article.

Sec. 11. "Issuing state" means the state in which a child custody determination is made.

Sec. 12. "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, regardless of whether the determination is made by the court that made the previous determination.

Sec. 13. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

Sec. 14. "Person acting as a parent" means a person, other than a parent, who:

- (1) has physical custody of the child or has had physical custody for a period of at least six (6) consecutive months,

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including any temporary absence, within one (1) year immediately before the commencement of a child custody proceeding; and

(2) has been awarded legal custody by a court or claims a right to legal custody under Indiana law.

Sec. 15. "Petitioner" means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

Sec. 16. "Physical custody" means the physical care and supervision of a child.

Sec. 17. "Record" means information that is:

(1) inscribed on a tangible medium; or

(2) stored in an electronic or other medium;

and is retrievable in a perceivable form.

Sec. 18. "Respondent" means a person against whom a proceeding has been commenced for enforcement of:

(1) an order for return of a child under the Hague Convention on Civil Aspects of International Child Abduction; or

(2) a child custody determination.

Sec. 19. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Sec. 20. "Tribe" means an Indian tribe or band or Alaskan Native village that is:

(1) recognized by federal law; or

(2) formally acknowledged by a state.

Sec. 21. "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

Chapter 3. Procedural Considerations

Sec. 1. A child custody determination made by an Indiana court that has jurisdiction under this article binds each person who has:

(1) been served with notice in accordance with Indiana law;

(2) been notified in accordance with section 3 of this chapter;

or

(3) submitted to the jurisdiction of the court;

and who has been given an opportunity to be heard. A child custody determination described in this section is conclusive as to all decided issues of law and fact except to the extent the determination is modified.



1 **Sec. 2.** If a question of existence or exercise of jurisdiction under
 2 this article is raised in a child custody proceeding, the question,
 3 upon a request of a party, must be given priority on the calendar
 4 and handled expeditiously.

5 **Sec. 3. (a)** Notice required for the exercise of jurisdiction when
 6 a person is outside Indiana may be given in a manner prescribed
 7 by:

- 8 (1) Indiana law for service of process; or
 9 (2) the law of the state in which the service is made.

10 Notice must be given in a manner reasonably calculated to give
 11 actual notice but may be by publication if other means are not
 12 effective.

13 **(b)** Proof of service may be made in the manner prescribed by:

- 14 (1) Indiana law; or
 15 (2) the law of the state in which the service is made.

16 **(c)** Notice is not required for the exercise of jurisdiction with
 17 respect to a person who submits to the jurisdiction of the court.

18 **Sec. 4.** A party to a child custody proceeding, including a
 19 modification proceeding, or a petitioner or respondent in a
 20 proceeding to enforce or register a child custody determination, is
 21 not subject to personal jurisdiction in Indiana for another
 22 proceeding or purpose solely by reason of having participated, or
 23 of having been physically present for the purpose of participating,
 24 in the proceeding.

25 **Sec. 5.** A person who is subject to personal jurisdiction in
 26 Indiana on a basis other than physical presence is not immune
 27 from service of process in Indiana. A party present in Indiana who
 28 is subject to the jurisdiction of another state is not immune from
 29 service of process allowable under the laws of that state.

30 **Sec. 6.** The immunity granted by section 4 of this chapter does
 31 not extend to civil litigation based on acts unrelated to the
 32 participation in a proceeding under this article committed by an
 33 individual while present in Indiana.

34 **Chapter 4. Communication and Cooperation Between Courts**

35 **Sec. 1.** An Indiana court may communicate with a court in
 36 another state concerning a proceeding arising under this article.

37 **Sec. 2.** The court may allow the parties to participate in the
 38 communication. If the parties are not able to participate in the
 39 communication, the parties must be given the opportunity to
 40 present facts and legal arguments before a decision on jurisdiction
 41 is made.

42 **Sec. 3.** Communication between courts regarding:



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- (1) schedules;
- (2) calendars;
- (3) court records; and
- (4) similar matters;

may occur without informing the parties. A record need not be made of the communication.

Sec. 4. A record must be made of a communication under sections 1 and 2 of this chapter. The parties must be:

- (1) promptly informed of the communication; and
- (2) granted access to the record.

Sec. 5. In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in Indiana for testimony taken in another state. The court on its own motion may:

- (1) order that the testimony of a person be taken in another state; and
- (2) prescribe the manner in which and the terms upon which the testimony is taken.

Sec. 6. An Indiana court may permit a person residing in another state to be deposed or to testify by:

- (1) telephone;
- (2) audiovisual means; or
- (3) other electronic means;

before a designated court or another location in that state. An Indiana court shall cooperate with courts in other states in designating an appropriate location for the deposition or testimony.

Sec. 7. Documentary evidence transmitted from another state to an Indiana court by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

Sec. 8. An Indiana court may request the appropriate court of another state to do the following:

- (1) Hold an evidentiary hearing.
- (2) Order a person to produce or give evidence under the procedures of the other state.
- (3) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding.
- (4) Forward to the Indiana court:
 - (A) a certified copy of the transcript of the record of the



hearing;

(B) the evidence otherwise presented; and

(C) any evaluation prepared in compliance with the request.

(5) Order:

(A) a party to a child custody proceeding; or

(B) any person having physical custody of the child; to appear in the proceeding with or without the child.

Sec. 9. Upon the request of a court of another state, an Indiana court may:

(1) hold a hearing; and

(2) enter an order described in section 8 of this chapter.

Sec. 10. Travel and other necessary and reasonable expenses incurred under sections 8 and 9 of this chapter may be assessed against the parties according to Indiana law.

Sec. 11. An Indiana court shall preserve the:

(1) pleadings;

(2) orders;

(3) decrees;

(4) records of hearings;

(5) evaluations; and

(6) other pertinent records;

with respect to a child custody proceeding until the child becomes eighteen (18) years of age. Upon appropriate request by a court or law enforcement official of another state, the Indiana court shall forward a certified copy of the records to the court of the other state.

Chapter 5. Jurisdiction

Sec. 1. (a) Except as otherwise provided in section 4 of this chapter, an Indiana court has jurisdiction to make an initial child custody determination only if one (1) of the following applies:

(1) Indiana is the home state of the child on the date of the commencement of the proceeding or was the home state of the child within six (6) months before the commencement of the proceeding and the child is absent from Indiana but a parent or person acting as a parent continues to live in Indiana.

(2) A court of another state does not have jurisdiction under subdivision (1), or a court of the home state of the child has declined to exercise jurisdiction on the ground that Indiana is the more appropriate forum under section 8 or 9 of this chapter, and:

(A) the child and the child's parents, or the child and at



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1 least one (1) parent or person acting as a parent, have a
 2 significant connection with Indiana other than mere
 3 physical presence; and

4 (B) substantial evidence is available in Indiana concerning
 5 the child's care, protection, training, and personal
 6 relationships.

7 (3) All courts having jurisdiction under subdivision (1) or (2)
 8 have declined to exercise jurisdiction on the ground that an
 9 Indiana court is the more appropriate forum to determine the
 10 custody of the child under section 8 or 9 of this chapter.

11 (4) No court of any other state would have jurisdiction under
 12 the criteria specified in subdivision (1), (2), or (3).

13 (b) The jurisdictional requirements described in this section
 14 provide the exclusive jurisdictional basis for making a child
 15 custody determination by an Indiana court.

16 (c) Physical presence of, or personal jurisdiction over, a party
 17 or a child is not necessary or sufficient to make a child custody
 18 determination.

19 Sec. 2. (a) Except as otherwise provided in section 4 of this
 20 chapter, an Indiana court that has made a child custody
 21 determination consistent with section 1 or 3 of this chapter has
 22 exclusive, continuing jurisdiction over the determination until:

23 (1) an Indiana court determines that:

24 (A) neither:

25 (i) the child;

26 (ii) the child's parents; nor

27 (iii) any person acting as a parent;

28 has a significant connection with Indiana; and

29 (B) substantial evidence is no longer available in Indiana
 30 concerning the child's care, protection, training, and
 31 personal relationships; or

32 (2) an Indiana court or a court of another state determines
 33 that:

34 (A) the child;

35 (B) the child's parents; and

36 (C) any person acting as a parent;

37 do not presently reside in Indiana.

38 (b) An Indiana court that:

39 (1) has made a child custody determination; and

40 (2) does not have exclusive, continuing jurisdiction under this
 41 section;

42 may modify the determination only if the Indiana court has



jurisdiction to make an initial determination under section 1 of this chapter.

Sec. 3. Except as provided in section 4 of this chapter, an Indiana court may not modify a child custody determination made by a court of another state unless an Indiana court has jurisdiction to make an initial determination under section 1(a)(1) or 1(a)(2) of this chapter and:

(1) the court of the other state determines that:

(A) it no longer has exclusive, continuing jurisdiction under section 2 of this chapter; or

(B) an Indiana court would be a more convenient forum under section 8 of this chapter; or

(2) an Indiana court or a court of the other state determines that:

(A) the child;

(B) the child's parents; and

(C) any person acting as a parent;

do not presently reside in the other state.

Sec. 4. (a) An Indiana court has temporary emergency jurisdiction if the child is present in Indiana and:

(1) the child has been abandoned; or

(2) it is necessary in an emergency to protect the child because:

(A) the child;

(B) the child's sibling; or

(C) the child's parent;

is subjected to or threatened with mistreatment or abuse.

(b) If:

(1) there is no previous child custody determination that is entitled to be enforced under this article; and

(2) a child custody proceeding has not been commenced in a court of a state having jurisdiction under sections 1 through 3 of this chapter;

a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under sections 1 through 3 of this chapter.

(c) If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 1 through 3 of this chapter, a child custody determination made under this section becomes a final determination, and, if it so provides, Indiana becomes the home state of the child.

(d) If:



1 (1) there is a previous child custody determination that is
2 entitled to be enforced under this article; or

3 (2) a child custody proceeding has been commenced in a court
4 of a state having jurisdiction under sections 1 through 3 of
5 this chapter;

6 any order issued by an Indiana court under this section must
7 specify in the order a period that the court considers adequate to
8 allow the person seeking an order to obtain an order from the state
9 having jurisdiction under sections 1 through 3 of this chapter.

10 (e) The order issued in Indiana remains in effect until an order
11 is obtained from the other state within the period specified or the
12 period expires.

13 (f) An Indiana court that has been asked to make a child custody
14 determination under this section, upon being informed that:

15 (1) a child custody proceeding has been commenced in; or

16 (2) a child custody determination has been made by;

17 a court of a state having jurisdiction under sections 1 through 3 of
18 this chapter, shall immediately communicate with the other court.

19 (g) An Indiana court that is exercising jurisdiction under
20 sections 1 through 3 of this chapter, upon being informed that:

21 (1) a child custody proceeding has been commenced in; or

22 (2) a child custody determination has been made by;

23 a court of another state under a statute similar to this section, shall
24 immediately communicate with the court of the other state to
25 resolve the emergency, protect the safety of the parties and the
26 child, and determine a period for the duration of the temporary
27 order.

28 **Sec. 5. (a) Before a child custody determination is made under**
29 **this article, notice and an opportunity to be heard in accordance**
30 **with the standards of IC 31-17.5-3-3 must be given to the following**
31 **persons:**

32 (1) All persons entitled to notice under Indiana law as in child
33 custody proceedings between residents of Indiana.

34 (2) Any parent whose parental rights have not been previously
35 terminated.

36 (3) Any person having physical custody of the child.

37 (b) This article does not govern the enforceability of a child
38 custody determination made without notice or an opportunity to be
39 heard.

40 (c) The obligation to join a party and the right to intervene as a
41 party in a child custody proceeding under this article are governed
42 by Indiana law in the same manner as in child custody proceedings



1 between Indiana residents.

2 **Sec. 6. (a)** Except as otherwise provided in section 4 of this
 3 chapter, an Indiana court may not exercise its jurisdiction under
 4 this article if, at the time of the commencement of the proceeding,
 5 a proceeding concerning the custody of the child has been
 6 commenced in a court of another state having jurisdiction
 7 substantially in conformity with this article, unless the proceeding:

8 (1) has been terminated; or

9 (2) is stayed by the court of the other state because an Indiana
 10 court is a more convenient forum under section 8 of this
 11 chapter.

12 **(b)** Except as otherwise provided in section 4 of this chapter, an
 13 Indiana court, before hearing a child custody proceeding, shall
 14 examine the court documents and other information supplied by
 15 the parties under sections 10 through 13 of this chapter. If the
 16 court determines that a child custody proceeding has been
 17 commenced in a court in another state having jurisdiction
 18 substantially in accordance with this article, the Indiana court
 19 shall:

20 (1) stay its proceeding; and

21 (2) communicate with the court of the other state.

22 If the court of the state having jurisdiction substantially in
 23 accordance with this article does not determine that the Indiana
 24 court is a more appropriate forum, the Indiana court shall dismiss
 25 the proceeding.

26 **Sec. 7.** In a proceeding to modify a child custody determination,
 27 an Indiana court shall determine whether a proceeding to enforce
 28 the determination has been commenced in another state. If a
 29 proceeding to enforce a child custody determination has been
 30 commenced in another state, the Indiana court may:

31 (1) stay the proceeding for modification pending the entry of
 32 an order of a court of the other state enforcing, staying,
 33 denying, or dismissing the proceeding for enforcement;

34 (2) enjoin the parties from continuing with the proceeding for
 35 enforcement; or

36 (3) proceed with the modification under conditions the
 37 Indiana court considers appropriate.

38 **Sec. 8. (a)** An Indiana court that has jurisdiction under this
 39 article to make a child custody determination may decline to
 40 exercise its jurisdiction at any time if the Indiana court determines
 41 that:

42 (1) the Indiana court is an inconvenient forum under the



circumstances; and

(2) a court of another state is a more appropriate forum.

The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court.

(b) Before determining whether an Indiana court is an inconvenient forum, the Indiana court shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the Indiana court shall allow the parties to submit information and shall consider all relevant factors, including the following:

(1) Whether domestic violence has occurred and is likely to continue in the future and which state is best able to protect the parties and the child.

(2) The length of time the child has resided outside Indiana.

(3) The distance between the Indiana court and the court in the state that would assume jurisdiction.

(4) The relative financial circumstances of the parties.

(5) Any agreement of the parties as to which state should assume jurisdiction.

(6) The nature and location of the evidence required to resolve the pending litigation, including the child's testimony.

(7) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence.

(8) The familiarity of the court of each state with the facts and issues in the pending litigation.

(c) If an Indiana court determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, the Indiana court:

(1) shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state; and

(2) may impose any other condition the Indiana court considers just and proper.

(d) An Indiana court may decline to exercise its jurisdiction under this article if a child custody determination is incidental to an action for dissolution of marriage or another proceeding while still retaining jurisdiction over the dissolution of marriage or other proceeding.

Sec. 9. (a) Except as otherwise provided in section 4 of this chapter or by any other Indiana law, if an Indiana court has jurisdiction under this article because a person seeking to invoke



its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(1) the child's parents and any person acting as a parent have acquiesced in the exercise of jurisdiction;

(2) a court of the state otherwise having jurisdiction under sections 1 through 3 of this chapter determines that Indiana is a more appropriate forum under section 8 of this chapter;

or

(3) no court of any other state would have jurisdiction under the criteria specified in sections 1 through 3 of this chapter.

(b) If an Indiana court declines to exercise its jurisdiction under subsection (a), the Indiana court may fashion an appropriate remedy to:

(1) ensure the safety of the child; and

(2) prevent a repetition of the unjustifiable conduct;

including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under sections 1 through 3 of this chapter.

(c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction under subsection (a), the court shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including:

(1) costs;

(2) communication expenses;

(3) attorney's fees;

(4) investigative fees;

(5) expenses for witnesses;

(6) travel expenses; and

(7) child care during the course of the proceedings;

unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against Indiana unless authorized by law other than this article.

Sec. 10. (a) Subject to local law providing for the confidentiality of procedures, addresses, and other identifying information in a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall provide information, under oath, regarding:

(1) the child's present address or whereabouts and the places where the child has lived during the immediately preceding five (5) years; and

(2) the names and present addresses of the persons with whom



the child has lived during that period.

(b) The pleading or affidavit must state the following:

(1) Whether the party has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify:

(A) the court;

(B) the case number; and

(C) the date of the child custody determination, if any.

(2) Whether the party knows of any proceeding that may affect the current proceeding, including proceedings for enforcement and proceedings relating to:

(A) domestic violence;

(B) protective orders;

(C) termination of parental rights; and

(D) adoptions;

and, if so, identify the court, the case number, and the nature of the proceeding.

(3) Whether the party knows the names and addresses of any person not a party to the proceeding who:

(A) has physical custody of the child; or

(B) claims rights of legal custody or physical custody of, or visitation with, the child;

and, if so, the names and addresses of the persons.

(c) If the information required by subsection (a) is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

Sec. 11. If the declaration as to any of the items described in sections 10(b)(1) through 10(b)(3) of this chapter is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to:

(1) the court's jurisdiction; and

(2) the disposition of the case.

Sec. 12. Each party has a continuing duty to inform the court of any proceeding in Indiana or any other state that may affect the current proceeding.

Sec. 13. If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be



made after a hearing in which the court:

- (1) takes into consideration the health, safety, or liberty of the party or child; and
- (2) determines that the disclosure is in the interest of justice.

Sec. 14. (a) In a child custody proceeding in Indiana, the court may order a party to the proceeding who is in Indiana to appear before the court in person with or without the child. The court may order any person who:

- (1) is in Indiana; and
 - (2) has physical custody or control of the child;
- to appear in person with the child.

(b) If a party to a child custody proceeding whose presence is desired by the court is outside Indiana, the court may order that a notice given under IC 31-17.5-3-3 include a statement:

- (1) directing the party to appear in person with or without the child; and
- (2) informing the party that failure to appear may result in a decision adverse to the party.

(c) The court may enter any orders necessary to ensure the safety of:

- (1) the child; and
- (2) any person ordered to appear under this section.

(d) If a party to a child custody proceeding who is outside Indiana:

- (1) is directed to appear under subsection (b); or
- (2) desires to appear personally before the court with or without the child;

the court may require another party to pay reasonable and necessary travel and other expenses of the party who appears and of the child.

Chapter 6. Enforcement

Sec. 1. Under this chapter, an Indiana court may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

Sec. 2. (a) An Indiana court shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this article or the determination:

- (1) was made under factual circumstances meeting the jurisdictional standards of this article; and
- (2) has not been modified in accordance with this article.



(b) An Indiana court may utilize any remedy available under any other law of Indiana to enforce a child custody determination made by a court of another state. The remedies provided in this article:

- (1) are cumulative; and
- (2) do not affect the availability of other remedies to enforce a child custody determination.

Sec. 3. (a) An Indiana court that does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

- (1) a visitation schedule made by a court of another state; or
- (2) the visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

(b) If an Indiana court makes an order under subsection (a)(2), the Indiana court shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in IC 31-17.5-5. The order remains in effect until:

- (1) an order is obtained from the other court; or
- (2) the period expires.

Sec. 4. (a) A child custody determination issued by a court of another state may be registered in Indiana, with or without a simultaneous request for enforcement, by sending the following to the appropriate Indiana court:

- (1) A letter or other document requesting registration.
- (2) Two (2) copies, including one (1) certified copy, of the determination sought to be registered and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified.
- (3) Except as otherwise provided in section 13 of this chapter:
 - (A) the name and address of the person seeking registration; and
 - (B) the name of any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

(b) On receipt of the documents required by subsection (a), the registering court shall:

- (1) cause the determination to be filed as a foreign judgment, together with one (1) copy of any accompanying documents and information, regardless of their form; and



(2) serve notice upon each person named under subsection (a)(3) and provide the person with an opportunity to contest the registration in accordance with this section.

(c) The notice required by subsection (b)(2) must state the following:

(1) A registered determination is enforceable as of the date of the registration in the same manner as a child custody determination issued by an Indiana court.

(2) A hearing to contest the validity of the registered determination must be requested not more than twenty (20) days after service of notice.

(3) Failure to contest the registration:

(A) shall result in confirmation of the child custody determination; and

(B) preclude further contest of that determination with respect to any matter that may have otherwise been asserted.

Sec. 5. (a) A person seeking to contest the validity of a registered order must request a hearing not more than twenty (20) days after service of the notice. At the hearing, the court shall confirm the registered order unless the person contesting the registration establishes that:

(1) the issuing court did not have jurisdiction under IC 31-17.5-5;

(2) the child custody determination sought to be registered has been:

(A) vacated;

(B) stayed; or

(C) modified;

by a court having jurisdiction to do so under IC 31-17.5-5; or

(3) the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of IC 31-17.5-3-3 in the proceedings before the court that issued the order for which registration is sought.

(b) If a timely request for a hearing to contest the validity of the registration is not made:

(1) the registration is confirmed as a matter of law; and

(2) the person requesting registration and each person served must be notified of the confirmation.

(c) Confirmation of a registered order:

(1) whether by operation of law; or

(2) after notice and hearing;



precludes further contest of the order with respect to any matter that may have been asserted at the time of registration.

Sec. 6. (a) An Indiana court may grant any relief normally available under Indiana law to enforce a registered child custody determination made by a court of another state.

(b) An Indiana court shall recognize and enforce, but may not modify, except in accordance with IC 31-17.5-5, a registered child custody determination of a court of another state.

Sec. 7. If a proceeding for enforcement under this article is commenced in an Indiana court and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under IC 31-17.5-5, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

Sec. 8. (a) A petition under this article must be verified. Certified copies of:

- (1) all orders sought to be enforced; and
- (2) any order confirming registration must be attached to the petition.

A copy of a certified copy of an order may be attached instead of the original.

(b) A petition for enforcement of a child custody determination must state the following:

- (1) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was.

- (2) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this article and, if so, identify:

- (A) the court;
- (B) the case number; and
- (C) the nature of the proceeding.

- (3) Whether any proceeding has been commenced that may affect the current proceeding, including proceedings relating to:

- (A) domestic violence;
- (B) protective orders;
- (C) termination of parental rights; and
- (D) adoptions;



and, if so, identify the court, the case number, and the nature of the proceeding.

(4) The present physical address of the child and the respondent, if known.

(5) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

(6) If the child custody determination has been registered and confirmed under sections 4 and 5 of this chapter, the date and place of registration.

Sec. 9. (a) Upon the filing of a petition, the court shall:

(1) issue an order directing the respondent to appear in person with or without the child at a hearing; and

(2) may enter any order necessary to ensure the safety of the parties and the child.

The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(b) An order issued under subsection (a) must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under section 15 of this chapter and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(1) the child custody determination has not been registered and confirmed under sections 4 and 5 of this chapter and that:

(A) the issuing court did not have jurisdiction under IC 31-17.5-5;

(B) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction under IC 31-17.5-5;

(C) the respondent was entitled to notice, but notice was not given in accordance with the standards of IC 31-17.5-3-3 in the proceedings before the court that issued the order for which enforcement is sought; or

(2) the child custody determination for which enforcement is sought was registered and confirmed under section 3 of this chapter but has been vacated, stayed, or modified by a court of a state having jurisdiction under IC 31-17.5-5.

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1 **Sec. 10.** Except as otherwise provided in sections 13 or 14 of this
 2 chapter, the petition and order must be served, by any method
 3 authorized by Indiana law, upon the respondent and any person
 4 who has physical custody of the child.

5 **Sec. 11.** Unless the court issues a temporary emergency order
 6 under IC 31-17.5-5-4, upon a finding that a petitioner is entitled to
 7 immediate physical custody of the child, the court shall order that
 8 the petitioner may take immediate physical custody of the child
 9 unless the respondent establishes that:

10 (1) the child custody determination has not been registered
 11 and confirmed under sections 4 and 5 of this chapter and that:

12 (A) the issuing court did not have jurisdiction under
 13 IC 31-17.5-5;

14 (B) the child custody determination for which enforcement
 15 is sought has been vacated, stayed, or modified by a court
 16 of a state having jurisdiction to do so under IC 31-17.5-5;
 17 or

18 (C) the respondent was entitled to notice, but notice was
 19 not given in accordance with the standards of
 20 IC 31-17.5-3-3 in the proceedings before the court that
 21 issued the order for which enforcement is sought; or

22 (2) the child custody determination for which enforcement is
 23 sought was registered and confirmed under sections 4 and 5
 24 of this chapter but has been vacated, stayed, or modified by a
 25 court of a state having jurisdiction under IC 31-17.5-5.

26 **Sec. 12. (a)** The court:

27 (1) shall award the fees, costs, and expenses authorized under
 28 section 15 of this chapter; and

29 (2) may grant additional relief, including a request for the
 30 assistance of law enforcement officials, and set a further
 31 hearing to determine whether additional relief is appropriate.

32 (b) If a party called to testify refuses to answer on the ground
 33 that the testimony may be self-incriminating, the court may draw
 34 an adverse inference from the refusal.

35 (c) A privilege against disclosure of communications between
 36 spouses and a defense of immunity based on the relationship of
 37 husband and wife or parent and child may not be invoked in a
 38 proceeding under this chapter.

39 **Sec. 13. (a)** Upon the filing of a petition seeking enforcement of
 40 a child custody determination, the petitioner may file a verified
 41 application for the issuance of a warrant to take physical custody
 42 of the child if the child is immediately likely to:



1 (1) suffer serious physical harm; or

2 (2) be removed from Indiana.

3 (b) If the court, upon the testimony of the petitioner or other
4 witness, finds that the child is imminently likely to suffer serious
5 physical harm or be removed from Indiana, the court may issue a
6 warrant to take physical custody of the child. The petition must be
7 heard on the next judicial day after the warrant is executed unless
8 that date is impossible. In that event, the court shall hold the
9 hearing on the first judicial day possible. The application for the
10 warrant must include the statements required by section 8(b) of
11 this chapter.

12 Sec. 14. (a) A warrant to take physical custody of a child must:

13 (1) recite the facts upon which a conclusion of imminent
14 serious physical harm or removal from the jurisdiction is
15 based;

16 (2) direct law enforcement officers to take physical custody of
17 the child immediately; and

18 (3) provide for the placement of the child pending final relief.

19 (b) The respondent must be served with the petition, warrant,
20 and order immediately after the child is taken into physical
21 custody.

22 (c) A warrant to take physical custody of a child is enforceable
23 throughout Indiana. If the court finds on the basis of the testimony
24 of the petitioner or other witness that a less intrusive remedy is not
25 effective, the court may authorize law enforcement officers to enter
26 private property to take physical custody of the child. If required
27 by exigent circumstances of the case, the court may authorize law
28 enforcement officers to make a forcible entry at any hour.

29 (d) The court may impose conditions upon placement of a child
30 to ensure the appearance of the child and the child's custodian.

31 Sec. 15. (a) The court shall award the prevailing party, including
32 a state, necessary and reasonable expenses incurred by or on behalf
33 of the party, including:

34 (1) costs;

35 (2) communication expenses;

36 (3) attorney's fees;

37 (4) investigative fees;

38 (5) expenses for witnesses;

39 (6) travel expenses; and

40 (7) child care during the course of the proceedings;

41 unless the party from whom fees or expenses are sought establishes
42 that the award would be clearly inappropriate.



(b) The court may not assess fees, costs, or expenses against a state unless authorized by law other than this article.

Sec. 16. An Indiana court shall accord full faith and credit to an order issued by another state and consistent with this article that enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction under IC 31-17.5-5.

Sec. 17. An appeal may be taken from a final order in a proceeding under this article in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order under IC 31-17.5-5-4, the enforcing court may not stay an order enforcing a child custody determination pending appeal.

Sec. 18. (a) In a case arising under this article or involving the Hague Convention on the Civil Aspects of International Child Abduction, a prosecuting attorney or other appropriate public official may take any lawful action, including resorting to a proceeding under this article or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child custody determination if there is:

- (1) an existing child custody determination;
- (2) a request to do so from a court in a pending child custody proceeding;
- (3) a reasonable belief that a criminal statute has been violated; or
- (4) a reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(b) A prosecuting attorney or other appropriate public official acting under this section acts on behalf of the court and may not represent any party.

Sec. 19. At the request of a prosecuting attorney or other appropriate public official acting under section 18 of this chapter, a law enforcement officer:

- (1) may take any lawful action reasonably necessary to locate a child or a party; and
- (2) assist a prosecutor or appropriate public official with responsibilities under section 18 of this chapter.

Sec. 20. If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor or other appropriate public official and law enforcement officers under section 18 or 19 of this chapter.



Chapter 7. Miscellaneous Provisions

Sec. 1. In applying and construing this article, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 2. If any provision of this article or its application to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

Sec. 3. A motion or other request for relief made:

(1) in a child custody proceeding; or

(2) to enforce a child custody determination;

that was commenced before July 1, 1999 is governed by the law in effect at the time the motion or other request was made.

SECTION 26. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 1999]: IC 31-9-2-23; IC 31-9-2-32; IC 31-9-2-33; IC 31-9-2-34; IC 31-9-2-35; IC 31-9-2-59; IC 31-9-2-81; IC 31-17-3.

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